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UTILITIES COMMISSION

March 15, 2002

Ms. Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
P O Box 83720
Boise ID 83720-0074

RE: Case No. GNR-E-02-1

Dear Ms. Jewell:

Enclosed for filing with the Commission are the original and seven (7) copies of the Comments of the J R Simplot Company and the Independent Energy Producers of Idaho, in the above-entitled matter.

I have included an extra copy of the filing to be date-stamped and returned for our file, in the enclosed self-addressed envelope.

Sincerely,

Myrna J. Walters

Myrna J. Walters
Legal Assistant

Mjw:pr
Enclosures

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UTILITIES COMMISSION

Attorneys for J. R. Simplot Company and the
Independent Energy Producers of Idaho

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION OF THE CONTINUED REASONABLENESS OF CURRENT SIZE LIMITATIONS FOR PURPA QF PUBLISHED RATE ELIGIBILITY (I.E. 1 MW) AND RESTRICTIONS ON CONTRACT LENGTH (I.E. 5 YEARS)	CASE NO. GNR-E-02-1 COMMENTS OF THE J. R. SIMPLOT COMPANY AND THE INDEPENDENT ENERGY PRODUCERS OF IDAHO

COMES NOW, the J. R. Simplot Company and the Independent Energy Producers of Idaho by and through their attorney of record, Peter J. Richardson, pursuant to the Notice of Comment/Protest Deadline issued by the Commission Secretary in the above captioned mater on February 5, 2002, and herein jointly lodge the following comments and request for hearing.

I. FUNDAMENTAL PURPOSE OF PURPA AND THE ROLE OF THIS COMMISSION

Cogeneration is not a new technology. For instance, at the beginning of the 20th century cogeneration and other non-utility generation accounted for over fifty percent of the power produced in the United States. Unfortunately, because of the way utilities are regulated in the

United States, cogeneration has historically been limited to "inside the fence" projects. Prior to PURPA, the market for sales of cogenerated power was artificially stifled. As a result, by 1970 cogeneration accounted for less than four percent of the total electricity produced in the United States. [1] By way of contrast, cogeneration accounts for over ten percent of the electric output in the European Union.[2] PURPA, the Public Utility Regulatory Policies Act of 1978, was passed in response to the 1973-74 Arab oil embargo as well as in response to the end of a long period of declining real prices of electricity. Between 1973 and 1982 electricity[3] prices increased, on a national basis, by sixty percent in real terms. Congress passed PURPA[4] in 1978 to encourage industrial and commercial cogeneration by prohibiting electric utility rate discrimination against, and providing rate benefits to qualifying cogeneration and small power production facilities ("QFs"). PURPA also provides QFs with the right to connect to the electric utility grid and exempts them from rate regulation by FERC or financial regulation by state commissions. *See* 16 U.S.C. 796 *et seq.* The purpose of such "favorable" treatment is to **encourage** the development of the QF industry in order to promote national energy security.

The role of the state commissions in implementing PURPA is quite broad. States are free to establish the terms and conditions of PURPA mandated purchases by electric utilities under their jurisdiction as long as those terms and conditions are within the general guidelines found in PURPA as implemented by the Federal Energy Regulatory Commission. [5] States may not,

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[1] Office of Technology Assessment, U.S. Congress, OTA-E-192, Industrial and Commercial Cogeneration at 3 (1983).

[2] "The Success of Cogeneration in Europe," Hannes Hunschofsky, Cogeneration and Competitive Power Journal, Summer 1998 Vol. 13, No. 3 at p. 9.

[3] U. S. Department of Energy, DOE/S-0057, Energy Security, A Report to the President of the United States at 154 (1987).

[4] PURPA ha been variously codified throughout 16 U.S.C. The key provisions can be found at 16 U.S.C. § 824a-3.

[5] Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of

however, set the rates at which utilities purchase QF power at a level higher than the purchasing utility's actual avoided costs. *Connecticut Light & Power Co.* 70 F.E.R.C. (CCH) 61,012, 61,031 (Jan. 11, 1995). With that one restriction in mind, this Commission then, is charged by Congress with encouraging the development of the QF industry in furtherance of a national policy to diversify our national energy portfolio away from reliance on energy sources that are subject to interruption and outside of the control of the United States.

The courts have consistently and explicitly found that the purpose of PURPA was to *encourage* the development of cogeneration and small power production facilities:

> Responding to heightened fuel costs and potential fuel shortages, Congress sought to promote conservation of oil and natural gas by electricity utilities. See FERC v. Mississippi, 456 U.S. 742, 745-46 (1982). Thus, to encourage the development of facilities that generate electricity using renewable resources and facilities engaged in cogeneration of electricity and useful heat or steam that might otherwise be wasted, id. at 750, and to overcome the reluctance of traditional utilities to buy from, and sell to, these alternative producers, Congress granted qualifying small power production facilities certain benefits. Under PURPA, such facilities were exempt from certain regulatory controls, and they were assured a market by providing a right to interconnect with the local public utility and to receive rates, as prescribed by FERC, up to the full avoided cost of the utility. See American Paper Inst. v. American Elec. Power Serv. Corp., 461 U.S. 402, 404-06 (1983); PURPA §§ 210, 212, 16 U.S.C. §§ 824a-3, 824i, 824k.

Southern California Edison v. FERC, 195 F3d 17, 19 (D.C. Cir. 1999). This Commission is charged by the United States Congress with implementing PURPA in such a manner as to actually encourage the development of the cogeneration industry. Implementing rules and

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the Public Utility Regulatory Policies Act of 1978, 45 Fed. Reg. 12,214, 12,216 (1980).

regulations that discourage the development of the QF industry are contrary to law, contrary to good public policy and contrary to good utility planning.

II. PRIOR COMMENTS BY THE J. R. SIMPLOT COMPANY

The J.R. Simplot filed comments in IPC-E-01-37, in which a compelling case was made demonstrating that the Commission's decision to reduce entitlement to published avoided cost rates to projects less than one megawatt in size coupled with a five year limitation on contract length has effectively killed the QF industry in Idaho. Although the Commission referenced the Simplot comments filed in the –37 case in its Notice of Comment/Protest Deadline initiating this case, it did not specifically rule that those comments will be part of the record in this case. Therefore, the Simplot comments in the –37 case are attached hereto as an exhibit to these comments and are, by this reference, incorporated herein.

III. CONTRACT LENGTH AND QF SIZE RULES *DISCOURAGE* COGENERATION

As noted above, it was the goal of Congress in passing PURPA to encourage the development of cogeneration for national security reasons. This Commission plays an important role in implementing that national policy through its PURPA rules and regulations. Unfortunately, despite the Commission's good intentions when it shortened the contract length and QF size for eligibility to published rates and standard contracts, the Commission actually erected an insurmountable roadblock to the development of QF power projects in Idaho. For example in the seven years since the Commission issued Order No. 25884 shortening the contract length and reducing the QF size at which a project is eligible for standard rates, Idaho

Power has signed only two QF contracts for a total of 2,200 KW of capacity.[6] While in the thirteen years before that change, Idaho Power signed an average of four contracts per year for an average in excess of 10,000 KW of capacity per year.[7] The Commission's decision to shorten the contact length and reduce size for eligibility for the standard rates has resulted in the frustration of the intent of congress and works to the detriment of our national policy to encourage QF development in furtherance of important national security objectives. While this result was surely unintended on the Commission's part, it is now time to correct that error. Indeed an immediate reversal is necessary in light of the recent energy crisis which caught utilities and regulators by surprise and cost ratepayers, in Idaho alone, hundreds of millions of dollars.

The dearth of any QF development in Idaho since the issuance of Order No. 25884 is compelling evidence that the Commission's rules actively discourage development of cogeneration and small power production facilities in Idaho. This is especially true since that order is a bright line demarking the demise of the industry in Idaho. In addition, the Commission should be cognizant of the practical impact of its order on the ability of the industry to operate under the draconian restrictions on QF size and contract length. It is true this Commission is prohibited from examining or regulating the financial results of operations of QFs. It is equally true that the Commission must be instructed as to the impact of its orders on the QF industry in order to determine whether it is fulfilling its duty under Federal law to *encourage* the development of cogeneration and small power production facilities. To that end, the

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[6] It appears that both of the post Order 25884 projects were already constructed as "inside the fence" projects prior to Order 25884 and therefore these projects were not developed after the issuance of that order.

[7] *See* Report of Cogeneration/Small Power Production for Idaho Power Company, Year to Date Totals as of December 2000. On file at the Idaho Public Utilities Commission.

Commission must understand that the restriction on contract length is a barrier to the construction of QF projects. It is a practical impossibility to finance a capital intensive project such as a cogeneration or small power production facility over just five years. While all projects have different financial needs, it is clear that no project is viable under the five-year contract limitation.

Similarly, QF size limitations, pose an artificial barrier to the development of the QF industry in Idaho. While the ten megawatt size limitation that was the norm in Idaho from the inception of PURPA until the issuance of Order No. 25884, was admittedly somewhat arbitrary, it did encourage the development of the QF industry – as required by Federal law. The one-megawatt size limitation does just the opposite. Again, although the Commission is prohibited from examining the internal financial needs and requirements of any particular QF, it must understand the impact of its decisions on the ability of the industry to operate under the constraints of the Commission's implementing rules and regulations. Roughly half of the QF contracts Idaho Power has signed are over one-megawatt and half are under one-megawatt. [8] Just using that historical data, the one-megawatt rule would have excluded half of the Idaho Power projects from developing. More significantly, the one half of the projects over 1-MW constitute over 90 percent of the capacity made available to Idaho Power <u>from all QF contracts</u>. Therefore the one-megawatt rule, alone, would have eliminated 90 percent of the industry. This fact is compelling evidence that the one-megawatt rule, contrary to Federal law, actively discourages QF development.

In addition, however, the one-megawatt rule precludes the development of many projects that require larger sized generators in order to capture economies of scale for a particular project.

It fosters waste by not permitting developers to capture the full potential of their project. For example, many of the canal drop hydro projects are well over five megawatts. None of those projects would have been viable or economic had they been limited to one megawatt. The same is true for many of the industrial cogeneration projects – it simply makes no economic sense to artificially undersize a cogeneration project in order to comply with an arbitrary ceiling on QF size.

IV. THE COMMISSION'S ORIGINAL RATIONALE IS NO LONGER VALID

This Commission made the following findings it its order shortening the contract length to five years:

> Idaho Power contends that it has no plans to build, own or operate new generating facilities to meet load growth. Instead, as the competitive wholesale power markets expand, Idaho Power plans to supplement its existing resources as necessary with market purchases of capacity and energy. These will be short-term purchases, the Company argues, and consequently, Idaho Power should not be required to offer QF contracts greater than five years during this period of transition.

Order No. 26578, in Case No. IPC-E-95-9 (Sept. 4, 1996)

Events have proven Idaho Power's reliance on the market for short-term purchases to be a costly mistake. Idaho Power is re-evaluating the wisdom of such reliance as well as its entire load resource planning criteria in light of its misplaced faith in the "competitive wholesale power markets." The rationale for reducing contract lengths to five years is simply no longer valid – if it ever was. Indeed, contrary to its stated policy of short term market purchases, just this summer Idaho Power constructed a significant new generating facility at Mountain Home, incurring a long term commitment to build and own generation. Its sister company is currently in the process of constructing a large gas fired turbine in southern Idaho. While the regulated utility is

[8] *Id.*

apparently only contracting for five years with its sister company, the fact remains that Idaho Power's parent company believes new generation is needed in Idaho Power's service territory and that market purchases are no longer a valid or reasonable method of meeting native load growth. The Commission should not further an obvious double standard, turning a blind eye to the utility's need to construct new generation in Idaho while heeding the utility's misguided assertions that short-term purchases on the "wholesale power markets" will meet its load requirements for the foreseeable future.

In the same order quoted above the Commission made the following findings:

> Significant changes have swept through the electric industry since we last examined the issue of contract length. The FERC has mandated open access to the transmission system, thermal technologies have improved, gas prices are low, there is a considerable surplus of energy available in this region resulting in very low spot market prices for electricity and, finally, even the continued existence of PURPA is being called into question. We find that as the industry as a whole continues to a more free market model, we cannot justify obligating utilities to 20-year contacts for PURPA power. As the utilities in this case note, such an obligation does not reflect the manner in which they are currently acquiring power to meet new load; through short-term (five years or less) purchases. Consequently, it would be nothing more than an artificial shelter to the QF industry to provide those projects with contract terms not otherwise available in the free market. We can find no justification for insisting that Idaho's investor-owned utilities and their ratepayers assume such an obligation simply to foster one particular segment of an increasingly competitive industry. We find, therefore, that Idaho's investor-owned utilities shall not be required to offer contracts to QFs in excess of five years until further action is taken by this Commission.

Id. At page 7, emphasis provided.

It seems the old adage is apt here, "the more things change the more they stay the same." It is true that significant changes have swept through the industry, however, those changes have not resulted in the predicted open and free competitive markets envisioned by the utilities and referenced by the Commission in the above passage. Indeed, Idaho seems farther away from opening its electric utilities to true market competition than ever before. There is no longer a "considerable surplus" of electricity in the region. Indeed, utilities are scrambling to build new capacity to meet projected deficits and *insulate themselves and their ratepayers* from the volatility of the unpredictable and unforgiving marketplace. The QF industry has a role to play in the resource acquisition portfolios of Idaho's utilities. The only artificial shelter being provided is the one-megawatt and five year contract term shelter afforded Idaho's utilities. This artificial shelter allows the utilities to avoid having to acquire some of their resources from the QF industry thereby creating the self-fulfilling prophecy of resource deficit and emergency shortages. It results in poor planning and the acquisition of unnecessarily expensive resources such as Idaho Power's mobile diesel generator debacle.

V. BENEFITS OF QF POWER

Often ignored in the decades long debate between the QF industry and the utilities operating in Idaho are the ancillary benefits to the utilities of a robust and healthy QF industry. There are many non-quantified monetary and system benefits that are simply ignored. Such benefits include the superior reliability of QF projects, transmission benefits of added generation at or near load centers, and reliability benefits of multiple diverse generating projects utilizing a variety of fuel mixes. There are economic benefits to the utilities when the agricultural and industrial sectors are made more profitable and viable because those industries are able to add value to their products through the generation of electricity as a by-product of their primary business. As noted on the attached exhibit, the Comments of the J.R.Simplot Company in Case No. IPC-E-01-37, the QF industry has produced power for Idaho Power Company at an overall cost LESS THAN Idaho Power has been able to acquire on its own.

The QF industry has been a valuable partner in providing cost effective capacity to Idaho's utilities. The Commission has legal obligation to encourage its development. Only through the replacement of the five year contract limitation with the historical 20-year contract and the return to the ten megawatt size limitation will the industry be able to return to its legitimate place as intended by the United States Congress when it passed PURPA.

WHEREFORE the J. R. Simplot Company and the Independent Energy Producers of Idaho respectfully urge this Commission to issue its order:

2. Requiring utilities under its jurisdiction to offer standard rate contracts at published avoided cost rates to all QF's up to ten megawatts in size; and,

2. Requiring all utilities under its jurisdiction to offer standard rate contracts to QFs of up to twenty years at the QF's option.

RESPECTFULLY SUMITTED THIS 15TH day of March, 2002.

Richardson & O'Leary P.L.L.C.

By ______________________

Peter Richardson

Attorneys for J. R. Simplot Company and the Independent Energy Producers of Idaho

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Attorneys for J. R. Simplot Company

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DECLARATORY ORDER CONCERNING ENTITLEMENT TO PUBLISHED RATES FOR NON-FUELED SMALL POWER PRODUCTION PROJECTS	CASE NO. IPC-E-01-37 COMMENTS OF THE J.R. SIMPLOT COMPANY AND REQUEST FOR FURTHER CONSIDERATION OF ISSUES DECIDED OR IMPLICATED IN ORDER NO. 25884

Comes now, the J. R. Simplot Company ("Simplot") by and through its attorney of record and pursuant to that Notice of Petition and Notice of Comment/Protest Deadline issued by the Secretary of the Idaho Public Utilities Commission ("Commission" or "PUC") in the above captioned matter on November 8, 2001, and hereby lodges its comments.

EXHIBIT Pg. 1

Idaho Power Company (Idaho Power) petitioned for clarification of this Commission's intent in Order No. 25884 when it created separate pricing methodologies for "fueled" and "non-fueled" QF projects. The J. R. Simplot Company does not believe that additional clarification is necessary as the intent that Order is clear as to the availability of the non-fueled option. However, the J.R. Simplot Company now petitions this Commission to review related issues decided in or implicated by Order No. 25884. Those two additional issues, contract length and the size at QF projects entitled to published avoided cost rates, should be revisited by this Commission for the compelling reasons set forth below:

1. Fueled vs. Non-Fueled Decision Should Remain in the Hands of the QF Developer

The Commission accurately observed in its Notice of Petition that:

> The methodologies [fueled and non-fueled], although structured differently, are presumed to be equivalent, each representing the purchasing utility's avoided costs, i.e. the "incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.'"

Because the two methodologies are "equivalent," the purchasing utility (and ultimately its ratepayers) are indifferent as to which method is used. Furthermore, Order No. 25884 is clear that non-fueled rates are available to any project that does not use a fossil fuel as is evident from the following passage from that Order:

> Staff proposes, for non-fueled projects, e.g. wind solar, hydro, to escalate the variable costs by a fixed amount for twenty years and then levelize both the fixed and variable cost for projects less than 1 MW. <u>We find: It was the original intent of PURPA to promote the development of non-fossil fueled resources. Consistent with this intent,</u> we hereby adopt Staff's non-fueled proposal for projects smaller than 1 MW. This meets the goal of encouraging alternative energy technologies without placing the utilities at undue risk of default by a developer receiving a levelized rate.

Order No. 25884 at pages 10-11, emphasis provided.[1]

It is clear from the above directive that the non-fueled rate is to be made available to all non-fossil fueled projects in keeping with the original intent of PURPA. Idaho Power's concern that non-fossil fuels such as biomass may be considered "fuel" for purposes of the Commission's order is unwarranted. However, in order to remove any doubt, the J. R. Simplot Company is supportive of the Commission issuing its order clarifying that all projects, regardless of motive source are entitled to their choice of fueled or non-fueled rates.

2. QF Size

The Commission not only created the fueled and non-fueled classifications in Order No. 25884, but it made a dramatic change in the size at which QF projects are entitled to contracts utilizing those published avoided cost rates. In that Order, the Commission ruled that only QF projects smaller than 1 MW are entitled to

[1] Web site copy, pagination in original orders may vary.

published rates set using the SAR methodology. The basis for the change was the Commission's finding that:

> There is a widely held expectation that there will be increasing competition within the electric utility industry. In light of that, we believe it is especially important that the QF industry be able to demonstrate that the energy resources it offered are as cost effective as those that a utility could construct. Ratepayers should be indifferent to whether a resource serving them was constructed by a utility or an independent developer. The cost and quality of service provided by either should be the same.

Id. at pp 3-4.

Regardless of one's view as to the desirability of competition in the electric utility industry, it has decidedly not come to Idaho and is very unlikely to do so in the foreseeable future. That rationale for limiting the size of QFs entitled to the published SAR avoided cost rate is no longer compelling or an eventuality.

Furthermore, the Commission's admonition that the ratepayer be indifferent as to cost has not come to fruition. Indeed, just the opposite has proven true. The following table identifies Idaho Power's resources, and their respective cost, that have come on line since PURPA was first implemented in Idaho:

Cascade (1984 hydro rebuild) 12 MW facility	90.00 mills per kwh[2]
North Valmy (coal new 1985) 260 MW facility	62.50 mills per kWh[3]
Milner (1992 hydro retrofit) 59 MW facility	62.74 mills per kWh[4]
Swan Falls (1994 hydro rebuild) 25 MW facility	73.05 mills per kWh[5]
Mt. Home Generators (2002 new gas) 90 MW facility	77 mills per kWh[6]
Mobile Generators (2002 diesel)	124 mills per kWh[7]

When compared to the PURPA projects over the same time period, it is abundantly clear that PURPA projects cost the ratepayers less than Idaho Power's own resources. Idaho Power has over sixty contracts with PURPA developers. The sum of those projects are shown below:

All Idaho PURPA Projects 166 MW of capacity	61.00 mills per kwh[8]

The cost information for Idaho Power's projects is taken directly from this Commission's orders in which those projects were approved for ratemaking purposes. Subsequent operational changes may have made those projects more or less expensive to operate. Nevertheless, the cost figure approved by the

[2] See IPUC Order No. 20610 issued in Case No. 1006-265
[3] See IPUC Order No. 20610 issued in Case No. 1006-265
[4] See IPUC Order No. 23529 issued in Case No. IPC-E-90-8
[5] See IPUC Order No. 23520 issued in Case No. IPC-E-90-2. The 73 mill figure was only made possible by amortizing the plant over fifty years.
[6] See IPUC Order No. 28773 issued in Case No.IPC-E-01-12. The 77 mill figure is only achieved if the units are run at their maximum capacity. Approval still pending.
[7] See IPUC Order No. 28773 issued in Case No. IPC-E-01-12.
[8] See Report of Cogeneration and Small Power Production for Idaho Power Company year end 2000, on file at the

Commission for Idaho Power built and owned projects is significantly higher than the rates offered to the QF industry.

Quite simply, Idaho Power's projects have been treated with special favor to the detriment of its ratepayers and at the expense of the QF industry. The best way to cure this inequity is to allow QF developers up to 10 MW in size access to published SAR based avoided cost rates.

The Commission further supported its decision to reduce the size at which a QF is entitled to the published SAR rate with the follow finding:

> By lowering the threshold to 1 MW, we are striking a reasonable balance between encouraging the development of independent, alternative energy technologies with the need to protect ratepayers from paying for resources which have not proven their cost effectiveness.

Id. at p. 4.

Unfortunately, the Commission's decision had the opposite effect than it intended. Instead of "encouraging the development of independent alternative technologies" it has essentially discouraged the development of any QF industry in Idaho. Idaho Power's most recent end of year QF report on file with the Commission identifies all QFs it has contracted with and that are actually on line and producing power. According to that report, the power company signed an

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Idaho Public Utilities Commission's offices.

average of slightly more that four QF contacts a year from 1981 through 1994. In the seven years since Order No. 25884, Idaho Power has signed only two QF contracts. Thus, far from "encouraging the development of the independent, alternative sources of energy," as it intended, the Commission has actually discouraged such development to the extent that there is essentially no QF industry left in Idaho.

3. Contract Length

The other deadly blow dealt to the QF industry was the reduction of the maximum contract term from twenty years to five years. This was accomplished in two steps. First, Order No. 26576 issued in the summer of 1996, reduced contract terms for QFs larger than one MW to five years. The contract term for smaller QF was actually reduced through modified procedure in Order No. 27111 issued in August 1997. The rationale in both orders was identical. First, the Commission concluded that competition is coming to the electric utility industry making QFs less important. Second, the Commission found that Idaho Power was only acquiring power to meet its load through "short-term (five years or less) purchases." Like the rationale for reducing QF size, the rationale for reducing contract length is no longer valid in Idaho.

The Commission was apparently convinced by Idaho Power's assertion that:

> [It] has no plans to build, own or operate new generating facilities to meet new load growth. Instead, as the competitive wholesale power markets expand, Idaho Power plans to supplement its existing resources as necessary with market purchases of capacity and energy. These will be short-term purchases, the company argues, and consequently, Idaho Power should not be required to offer QF contracts greater than five years . . .

Order No. 26576 at p. 3.

Again, as in the past, times have changed and this rationale appears to be no longer valid. Only with the reinstatement of the standard 20 year contract will the QF industry will be able to fulfill its Congressionally mandated role in assisting Idaho Power, Avista and PacifiCorp to provide the capacity and energy they need. As the Commission noted in Order No. 21630 (reducing the standard contract length from thirty-five years to twenty years), a twenty year contract term is the appropriate length of time to balance risk with the requirement that the "Commission support the QF industry as required by Congress and the national interest." Order No. 21630 at page 3, Case No. U-1500-170 issued in January 1988.

Reducing the standard contract term to twenty years did not have any appreciable impact on the ability of the QF industry to perform as Congress intended. Reducing the standard contract length to five years had a crippling impact on the industry and does not fulfill the requirement observed by this Commission that it "support the QF industry as required by Congress and the national interest."

PRAYERS FOR RELIEF

Now therefore, the J. R. Simplot Company asks the Commission to issue its order on modified procedure without need for hearing as follows:

1. Clarify that all non-fossil fueled QF projects are entitled to choose whether they wish to sell their output to Idaho Power as either fueled or non-fueled; and

Furthermore, the J. R. Simplot Company urges this Commission to, via modified procedure, proceed to make the following changes in its policy implementing PURPA. It is appropriate to use modified procedure because this is a policy determination on the Commission's part and because modified procedure was used to implement part of the contract term reduction in the first instance:

1. Increase the entitlement to the Commission's published SAR-based avoided cost rates to all QFs that are ten megawatts or less in capacity.

2. Increase the standard contract term for all QFs ten megawatts or less in capacity from five years to twenty years with the developer retaining the right to choose the term up to twenty years.

DATED this _____ day of November, 2001.

Richardson & O'Leary P.L.L.C.

By ______________________

Peter Richardson
Attorneys for J. R. Simplot
Company

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of November 2001, served the foregoing COMMENTS OF THE J.R. SIMPLOT COMPANY, in Case No. IPC-E-01-37, by personal service on:

Barton L. Kline
Senior Attorney
Idaho Power Company
Boise, Idaho

CERTIFICATE OF SERVICE

I hereby certify that I did this date mail the attached Comments of the J. R. Simplot Company and The Independent Energy Producers of Idaho, to the following:

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DATED at Eagle, Idaho, this 15th day of March, 2002.

Myrna J. Walters

Myrna J. Walters
Legal Assistant